

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Eric Sloan,**

Petitioner-Appellant,

**v.**

**Warren County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-91-0757**

**Parcel No. 063+63-115-00-0030**

On June 1, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Eric Sloan, was self-represented. The Warren County Board of Review designated Assistant County Attorney John W. Criswell as its legal representative; he did not appear at the hearing. Neither party submitted new evidence in addition to the certified record. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

***Findings of Fact***

Sloan is the owner of a residentially classified, single-family residence located at 8003 Echo Drive, Norwalk, Iowa. The property is a one-story townhouse built in 2003, and has 1428 square feet of total living area with a full, walk-out basement, and 1200 square feet of living-quarter-quality basement finish. Other features include a two-car attached garage with third stall golf-cart storage, a 240 square foot deck, and a concrete patio area with 144 square feet. The site is 2952 square feet.

Sloan protested to the Warren County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Sloan's property was \$247,200, allocated \$7,900 in land value and \$239,300 in improvement value.

Sloan's claim was based on a single ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). Sloan asserted the market value of the property is \$240,000, allocated \$7,900 in land value and \$232,100 in improvement value. The Board of Review denied the protest.

Sloan then appealed to this Board asserting the same ground of over-assessment, and the same market value of the property, \$240,000.

In his petition to the Board of Review, Sloan provided a document labeled "Attachment: Petition to Local Board of Review – Grounds #2" (Attachment). In this Attachment, Sloan states the property was purchased in an arms length transaction three months prior to the January 1, 2009, assessment. He believes the market value of \$240,000, which is arrived at after adjusting the purchase price to exclude personal property and closing costs paid by the seller, is the best indication of market value. The subject property was purchased on September 24, 2008, for \$245,000 and included all the larger appliances (refrigerator, stove, dishwasher, microwave and central vac), as well as the seller paying \$1960 in closing costs. Sloan estimates the depreciated value of the appliances at \$3000.

When questioned at hearing, Sloan admitted that in "existing" properties it is not unusual for appliances to be included in the list/purchase price of homes. Additionally, he indicated the purchase was essentially for sale by owner. While the seller is a licensed real estate agent, the negotiations and ultimate agreed upon purchase price were done outside of any professional real estate company. Sloan was unable to answer whether the seller was willing to take a discounted sales price for the home, in lieu of paying real estate commissions associated with professional listings. We note real estate commissions are typically not excluded in the fair market value of real estate.

Sloan indicated an appraisal had been completed on the property, for loan purposes, at the time of sale. He could not recall the final opinion of value and thought a value range might have been reported. We asked Sloan to forward a copy of the appraisal to this Board, as well as the Board of



Review. We also asked him if the Declaration of Value (DOV) reported personal property. He did not know.

Sloan provided the Board with a copy of the appraisal, as well as a cover letter dated June 11, 2010. The letter outlines additional information and citations in support of Sloan's position. However, the record was kept open only for the appraisal and the letter received with the appraisal will not be considered.

The appraisal was completed by Tracy McGee and Robert J. McGivern, both with Koestner, McGivern and Associates. It has an effective date of August 25, 2008, and was completed for purposes of the purchase and subsequent financing of the subject property. Four comparables were presented, all located in Norwalk and within three miles of the subject property. The sales occurred between September 2007 and July 2008 with sales prices ranging from \$200,900 to \$285,500. The adjusted sales prices range from \$218,600 to \$270,500. Sale three, which sets the upper end of this range, appears to be located in the subject's development as it is .09 miles from the subject property. Although an older property, twenty-one years versus the subject property's five years, it required the lowest percentage of adjustments and offers the most similar size and amenities. However, the appraiser reports that an interview with the listing agent indicated the buyer of this property was motivated and specifically seeking a town-home with a golf course view. The appraisers weighted this and give this sale less consideration. The appraiser concludes an opinion of \$245,000.

Sloan did not offer any other evidence or any other sales of similar properties, beyond the sale of his own property, which would support his assertion of market value. Although there is no legal obligation requiring more than one comparable property for a market value opinion, we feel it could limit the reliability of this approach to value, because, as a residential dwelling, it is not an uncommon type of property. We find the appraisal, which offered four comparable properties, to be the most credible evidence offered by Sloan regarding the market value of the subject property.

The Board of Review was not present at the hearing. There was nothing in the certified record in support of their position.

We find that sufficient evidence has been provided to demonstrate the subject is assessed for more than authorized by law.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In *Riley v. Iowa City Bd. of Review*, 549 N.W. 2d 289, 290 (Iowa 1996), the Court determined that, “It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value.” Sloan failed to offer any recent sales of similar properties to demonstrate what he believes to be the correct value of

the property. While Sloan points to the recent purchase agreement for the subject property, he backs out costs which may not typically be subtracted by market participants. Additionally, he could not answer if the purchase price reflected a discount for realtor commissions since this transaction occurred without professional representation. Sloan provided this Board the appraisal which was completed for financing purposes in relation to the purchase in 2008. We find this appraisal to be the most credible evidence presented in regards to the market value of the subject property.

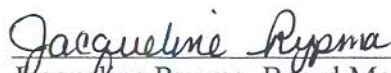
The price paid in this instance is a good indicator of the property's actual value, which indicates the current assessed valuation is not more than authorized by law.

THE APPEAL BOARD ORDERS the assessment of Eric Sloan's property located at 8003 Echo Drive, Norwalk, Iowa, be modified to a total value of \$245,000, representing \$7,900 in land value and \$237,100 in improvements as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 7 day of July, 2010

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, Board Member



Cc:

Eric Sloan  
8003 Echo Drive  
Norwalk, Iowa 50211  
APPELLANT

John W. Criswell  
208 W Ashland Avenue  
Indianola, Iowa 50125  
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2-2</u> 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>John Criswell</u>